

Presentation to the
New Mexico Finance Authority
Oversight Committee

Water Trust Board Overview
HB 211 Implementation
Water Project Fund Technical Assistance Program
2024 Cost Oct Overruns

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The Water Project Finance Act

- ▶ The 2001 Legislature enacted the Water Project Finance Act (the “Act”) which created the Water Trust Board (“WTB”), a 16-member board representing a diverse set of water interests.
- ▶ The statutory purpose of the Act is to provide for water use efficiency, resource conservation and protection and fair distribution and allocation of New Mexico's scarce water resources for beneficial purposes of use within the state.
- ▶ The Act created **Water Project Fund** (“the Fund”), which is created within the NMFA, and is used to make grants and loans to projects recommended by the WTB and to hire contractors to provide technical and administrative assistance.
- ▶ The Act also created the **Water Trust Fund**, a constitutionally protected Fund invested by the State Investment Council, which provides annual funding to the Fund.
- ▶ NMFA provides staff support to the WTB and develops application procedures and forms for qualifying entities to apply for grants and loans from the Fund.
- ▶ 2024’s HB211 amended the Act which will require the WTB to update its rules and policies. The Rule amendment process is expected to begin formally at the WTB’s October Board Meeting. Amended rules and updated policies are expected to be in place for the 2026 WTB application cycle expected to begin in August 2025.



Water Trust Board Members & Duties

Mike Hamman, *Chair (retired 06/2024)*, New Mexico State Engineer

A.J. Forte, *Vice-Chair*, New Mexico Municipal League

Michael Sloane, *Secretary*, NM Dept of Game and Fish

Greg Alpers, Irrigation or Conservancy District – Surface Water

Joy Esparsen, New Mexico Counties

Melanie A. Kenderdine, Energy, Minerals & Natural Resources Dept

James Kenney, NM Environment Department

Priscilla Lucero, Environmental Community

Timothy McGinn, Irrigation or Conservancy District-Ground Water

Dr. Buu Nygren, President, Navajo Nation

Wayne Propst, Dept. of Finance and Administration

Marquita Russel, New Mexico Finance Authority

Mark Thompson, NM Indian Affairs Department Appointee

Brent Van Dyke, Soil and Water Conservation Districts

Jeff Witte, Department of Agriculture

Vacancy: Acequia Water Users

Recommend to the Legislature and the NMFA **qualifying water projects**:

- (1) storage, conveyance or delivery of water to end users;
- (2) implementation of federal Endangered Species Act of 1973 collaborative programs;
- (3) restoration and management of watersheds;
- (4) flood prevention; or
- (5) water conservation or recycling, treatment or reuse of water as provided by law;
- (6) *Wastewater conveyance and treatment*

Evaluate projects, including their environmental impacts, and recommend projects to the interstate stream commission pursuant to the provisions of Section 72-14-45



WTB Evaluation Criteria

- ▶ Pursuant to the Act, the WTB adopted rules that give priority to projects that have:
 - been identified as being urgent to address public health and safety issues;
 - matching contributions from federal or local funding sources;
 - obtained all requisite state and federal permits and authorizations necessary to initiate the project
- ▶ Additionally, the WTB adopted policies and evaluation criteria that prioritize projects that:
 - cure health and safety issues
 - address existing or imminent emergency conditions
 - that have been properly planned
- ▶ WTB policies outline project specific prioritization criteria
 - NMFA heads up a six-agency review team that evaluates project applications and makes recommendations to the WTB and its committee



Policy Changes

Over the past several years, the WTB has made changes to its policies to make the funding more accessible, particularly to smaller water systems:

- ▶ Allows Technical Memoranda in place of Preliminary Engineering Reports for straight-forward projects
- ▶ Provides grants of up to \$500,000 for “Design only” projects if:
 - The Applicant serves fewer than 500 connections
 - “Design” is defined as necessary technical work required to prepare a complete and final set of plans and specifications ready to be bid
 - Costs for the design must be substantiated with a planning document
 - To date, 12 water systems have received 100% grant for “design only” projects
- ▶ Waiver of the match requirement for water systems when:
 - Applicant has implemented an asset management plan for the current and future maintenance, replacement and repair of the system; and
 - Applicant serves fewer than 250 connections and has previously secured WTB funding for the proposed project as defined by planning document; or
 - System upgrade is to consolidate with another system; or
 - System upgrade/expansion is to incorporate previously unserved customers (not for future development);



Policy Changes

- ▶ Waiver of the loan requirement for water projects when:
 - Applicant must have implemented an asset management plan for the current and future maintenance, replacement and repair of the system; and
 - Applicant serves fewer than 500 connections and has previously secured WTB funding for the same project; or
 - The project is to consolidate two or more systems

Additional policy changes are needed to:

- ▶ Incorporate the changes in HB211:
 - Establishing prioritization criteria and requirements for wastewater conveyance and treatment projects in preparation for the 2026 WTB application cycle
 - Clean-up and clarification language
- ▶ HB200 implementation for the NM Unit fund:
 - WTB must establish criteria to meet the goals articulated by the Interstate Stream Commission.
 - ISC is currently holding listening sessions on the goals of a pilot project for planning application scheduled to open in September
- ▶ Implementing the Technical Assistance Plan to support water systems with the focus on regionalization and streamlined system planning



Technical Assistance Program

House Bill 211 included a new use of the Fund: **“Money in the Fund may be used by the authority to...hire contractors to provide financial and administrative capacity and direct technical assistance on water projects.”**

At its August 7th Board Meeting, the WTB approved parameters for a technical assistance program with two elements:

- Individual System Planning
 - NMFA will hire engineers to complete Planning Documents for communities rather than give grants to communities to hire the contractors themselves
 - NMFA anticipates significant time and cost savings from this approach resulting in the communities getting the planning document sooner and allowing for multi-community planning to occur
- Regionalization Facilitation
 - NMFA will hire attorneys, accountants, project managers, and community facilitators to expedite the consolidation of ready and willing systems
 - Th effort builds on SB 1 from 2023 session and leverages the recent WTB policy changes that waive the required local match and loan component from systems interconnecting
- NMFA will issues an RFP in September and bring a final Technical Assistance Plan to the WTB in late October. \$3.5 million of the 2024 funds were set aside for these efforts



Construction Cost Overrun

- ▶ WTB projects continue to see construction cost overruns due to increased material and labor costs. To assist small systems unable to absorb these increases, the WTB set aside funds from the 2021, 2022 and 2023 cycles. Additionally, the 2024 legislature (SB275) set aside \$18 million to address cost overruns for projects authorized awarded in 2023 and earlier.
- ▶ To date, an additional \$3,296,186 has been awarded to five Water Associations:
 - 2021 WTB Set-Aside funded cost overruns for four projects: Cueva MDWCA, Rio Lucio MDWCA, Rodarte MDWCA, Union Del Llano MDWCA totaling \$2,096,186
 - SB 275 funded \$1.2 million in cost overruns for Cerro Regional Mutual Dometic
- ▶ With several systems going out to bid in the next few months, staff anticipates additional funding requests:
 - 2021 WTB cycle has 11 remaining projects under construction (including the four that received additional funding)
 - 2022 WTB cycle has 15 active projects of which 6 are currently in construction
 - 2023 WTB cycle has 31 active projects, only two of which are currently in construction



2024 Awards

- ▶ \$167.5 million was available for 2024 projects authorized in HB 148 and that submitted their readiness applications. 65 projects were authorized, four did not submit readiness applications.
- ▶ Due to delays in submitting audits and other regulatory issues, the 2024 WTB made its awards in two phases:
 - On April 23rd, the WTB awarded 45 projects for a total of \$136,655,526
 - On August 7th, the WTB made a second round of awards to 10 projects totaling \$30,102,015
 - Several applications were downsized to meet the timing spenddown target of 18-24 months
 - \$790,000 was set aside for cost overruns for 2024 projects
 - A total of 55 projects were awarded, 6 projects were not awarded:
 - One application was withdrawn because it received funding from the Colonias Infrastructure Board
 - Four applications were not funded because the applicants were not EO Compliant
 - Insufficient funding for the last, low-ranked project



2025 Application Cycle

- ▶ Currently, funding available for 2025 authorized projects is estimated at \$122.8 million
- ▶ 90 Notices of Intent to file an application totaling approximately \$330 million were received:
 - 66 Water Storage, Conveyance & Delivery projects totaling \$235,526,408
 - 11 Flood Prevention projects totaling \$28,452,088
 - 7 Water Conservation or Recycling, Treatment or Reuse projects totaling \$62,168,750
 - 6 Watershed Restoration and Management projects totaling \$3,628,451
- ▶ The on-line application will open on August 15 – September 16, 2024. Applicant training will be held virtually on August 14th. Applications must be accompanied by evidence of additional funding and mandatory planning documents as part of the established criteria.
 - The WTB will hold a two-day meeting, October 2&3, to give applicants an opportunity to present their projects. The WTB will also consider waivers for applicants that do not meet preliminary target drawdown expenditures at the time of application.
- ▶ Submitted eligible applications will be evaluated using existing WTB-established criteria.
 - The Water Trust Board is expected to recommend projects to the legislature for authorization at its meeting on October 29th for the NMFA Oversight Committee endorsement consideration on November 12th.

